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C O N F I D E N T I A L SECTION 01 OF 02 PANAMA 002363

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TAGS: [PGOV](#) [PM](#) [POL](#) [FOREIGN](#) [POL](#)
SUBJECT: PANAMA: ARNULFISTAS LOSE LEGISLATIVE SEAT TO PRD.
LOSER MAY FACE MORE TROUBLE.

REF: PANAMA 1224

Classified By: Ambassador Linda E. Watt for Reasons 1.4 (b) & (d)

SUMMARY: CASTILLO DEFEATS MILANES

1. (SBU) Geovany Castillo of President Torrijos' Democratic Revolutionary Party (PRD) defeated Arnulfista Party (PA) legislative incumbent Haydee Milanese de Lay by an 11% margin in 9/12 partial elections in Panama's easternmost province of Darien. Castillo will represent the La Palma region (electoral circuit 5-1) in Panama's Legislative Assembly. Milanese won the seat in the May 2, 2004 general election, but the Electoral Tribunal annulled her election due to indications that she had used government funds to "purchase votes," thus gaining an unfair advantage. With the Castillo win, the PRD/Popular Party (PP) legislative majority has increased from 42 to 43 (42 PRD 1 PP) of 78 legislators. The PA has the largest minority contingent of 16 and the remaining 19 legislators from four other parties have united to form a single front. Barring major PRD defections to the opposition, the PRD/PP coalition should have smooth sailing for the near future. The Castillo win opens the door for a new investigation of Milanese, exactly what Electoral Prosecutor Gerardo Solis has proposed. END SUMMARY.

WHAT DID MILANES DO?

2. (C/NF) Haydee Milanese de Lay won the May 2004 election in all probability thanks to the use of public funds to encourage voters to support her. The brief that Electoral Prosecutor Gerardo Solis submitted to Panama's three Electoral Magistrates (based on evidence that Geovany Castillo collected) asserts that Milanese benefited from the emission of National Bank of Panama (BNP) checks issued immediately prior to the May 2 election by the La Palma Community Council. According to media reports, an estimated 600 of those checks were cashed the day after the election. One Electoral Magistrate told EmbOffs that Solis' brief indicted wrongdoing, but did not contain sufficient evidence to convict Milanese of an electoral crime. While there is no way to know the exact correlation between the BNP checks and Milanese' win, the Electoral Tribunal annulled her election because she only defeated Castillo on May 2 by 148 votes.

COMMENT: WILL MILANES LOSE MORE THAN HER SEAT?

3. (C) Critics have lambasted the Electoral Tribunal (TE) decision not to proceed with formal charges against Milanese, but all they had to do was wait. On September 13, Electoral Prosecutor Gerardo Solis requested that the TE lift Milanese' immunity to authorize an investigation based on new evidence presented to his office. Solis considers immaterial the fact that President Moscoso "pardoned" Milanese "for any crime for which she was being investigated" in August 2004 since a new investigation, by definition, wouldn't have been ongoing at the time of the August 2004 pardon. Solis' decision to investigate Milanese (an Arnulfista) may not be thoroughly objective due to his strong PRD affiliation before becoming Electoral Prosecutor. Based on an argument that neither the PRD nor the PP raised, Solis also sought (unsuccessfully) to have the Electoral Tribunal transfer a seat to the PRD that it had awarded to the PP in May 2004 based on a written PRD/PP agreement (which differed from the formula stipulated in Panama's convoluted electoral law).

14. (C) Particularly as they approach the second semester 2006 end of their ten-year terms, none of the Electoral Magistrates are looking to anger the political class. (NOTE: The executive, legislative, and judicial branch each appoint one Electoral Magistrate. END NOTE.) Prosecuting Milanes for an electoral crime could spur the Arnulfistas to blacklist the magistrates for re-appointment and would have opened a Pandora's box for the TE. "Why," critics would ask, "did Gerardo Solis not investigate the PRD candidates accused of buying votes?" They might also ask why the TE didn't further investigate other cases of vote-buying on behalf of Arnulfista candidates, including one instance in the heavily-populated San Miguelito district of Panama City where businessmen admitted having bought and distributed supermarket gift certificates to voters less than a month before the election. Unfortunately, the latter transgressions, albeit thoroughly unethical, did not violate any law.

WATT